

United States Department of Agriculture,  
OFFICE OF THE SECRETARY,  
BOARD OF FOOD AND DRUG INSPECTION.

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**NOTICE OF JUDGMENT NOS. 58-63, FOOD AND DRUGS ACT.**

- 58. Adulteration and misbranding of oats (As to presence of barley).
  - 59. Adulteration and misbranding of lithia water (Basic Lithia Water).
  - 60. Adulteration and misbranding of buckwheat flour (As to presence of wheat and maize).
  - 61. Misbranding of vinegar (As to location and name of manufacturer).
  - 62. Misbranding of vinegar (As to location and name of manufacturer).
  - 63. Misbranding of canned corn (Underweight).
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(N. J. 58.)

**ADULTERATION AND MISBRANDING OF OATS.**

(AS TO PRESENCE OF BARLEY.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 20th day of November, 1908, in the district court of the United States for the eastern district of Tennessee, in a proceeding of libel for seizure and condemnation of one carload of oats, shipped by the Bartlett Commission Company from East St. Louis, Ill., to Lewis & Adcock, Knoxville, Tenn., which said oats were adulterated and misbranded within the meaning of sections 7 and 8 of the aforesaid act, in this, that they were sold, shipped, and invoiced as "No. 2 mixed oats," whereas, in fact, they contained 25 per cent of barley, wherein the United States was libellant and the said Bartlett Commission Company was claimant, the cause having come on for hearing upon the issues made by the libel and the answer of the claimant denying the adulteration and misbranding therein charged, and upon the later admission of said claimant, in open court, of the truth of the charges in said libel made, the court rendered its decree in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA, FOR THE  
NORTHERN DIVISION OF THE EASTERN DISTRICT OF TENNESSEE.

THE UNITED STATES  
vs. } No. 4. Order.  
ONE CARLOAD OF OATS. }

This cause came on to be heard on this 20th day of November, 1908, before Hon. Edward T. Sanford, Judge, present James R. Penland, United States

attorney, representing the United States, and Cornick, Wright & Franz, attorneys, representing the Bartlett Commission Company, the owner and claimant of the property herein seized; and it appearing that a libel was duly filed by the said United States against a certain carload of oats, consisting of 48,000 pounds, branded and shipped as "No. 2 mixed oats" by the said Bartlett Commission Company as consignors, from East St. Louis, in the State of Illinois, to Lewis & Adcock, Knoxville, in the State of Tennessee, and that under process duly issued in accordance with the prayer of said libel, the said carload of oats was duly seized by the United States marshal of this district, in the city of Knoxville, Tennessee, within the jurisdiction of this court, and so held by him at this time.

And it further appearing that said attorneys of said claimants agree in open court that said carload of oats was subject to seizure and condemnation by said United States, for the causes set forth in the libel herein, that is to say, that said oats contained a larger per cent of barley than permitted under the Pure Food and Drugs Act of June 30, 1906, and for that reason was misbranded and adulterated, and therefore the attorneys of said claimant in open court agree that an order may be entered at once, condemning and confiscating the said property to the said United States.

It is therefore ordered, adjudged, and decreed that the said 48,000 pounds of oats as above described, now in the possession of the United States marshal of this court, be, and the same are hereby, declared forfeited and confiscated to the said United States.

But because it appears that the carload of oats in question herein may be valuable as a food, and when properly branded may be sold without violation of law, it is further ordered that upon payment by the Bartlett Commission Company of all the cost of this cause, and the execution and delivery of a good and solvent bond in the penalty of \$800.00 to be filed with the clerk of this court, conditioned that the said 48,000 pounds of oats shall not be sold or otherwise disposed of contrary to the Pure Food and Drugs Act of June 30, 1906, or contrary to the laws of any State, Territory, District, or insular possession, then the said United States marshal of this court is hereby directed to deliver the possession of said oats to said Bartlett Commission Company, their attorneys or agents, which shall be disposed of or sold only when labeled or branded "barley mixed oats."

But in the event said Bartlett Commission Company shall fail to pay said costs, or fail to give the bond as above provided within ten days from the date of the entry of this order, then the marshal of this court is directed, after first properly branding or labeling said 48,000 pounds of oats as "barley mixed oats," to advertise the same for sale in some newspaper published in Knoxville, Tennessee, for a period of ten days, and sell the same on the premises where they are now located, in the city of Knoxville, for cash to the highest and best bidder.

The facts in the case were as follows:

On October 12, 1908, an inspector of the Department of Agriculture found in the possession of Lewis & Adcock, Knoxville, Tenn., a carload of an animal food purporting to be mixed oats; the lot had been invoiced and shipped to that firm on October 9, 1908, as "No. 2 mixed oats," by the Bartlett Commission Co., East St. Louis, Ill. An examination of a sample from the shipment in question was made in the Bureau of Chemistry, Department of Agriculture, with the result that it

was found to consist of 75 per cent of oats and 25 per cent of barley by weight.

It was apparent that the lot in question was both adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906. Accordingly, on October 13, 1908, the Secretary of Agriculture reported the facts to the United States attorney for the eastern district of Tennessee and libel for seizure and condemnation under section 10 of the act was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *May 4, 1909.*

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(N. J. 59.)

## **ADULTERATION AND MISBRANDING OF LITHIA WATER.**

(BASIC LITHIA WATER.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 75 bottles, more or less, of a liquid labeled "Basic Lithia Water," a proceeding of libel under section 10 of the aforesaid act, for seizure and condemnation of said water, wherein Otis H. Wood of Washington, D. C., was claimant, lately pending, and finally determined in the supreme court of the District of Columbia on December 8, 1908, by entry of the decree hereinbelow set out. The water was adulterated and misbranded, within the meaning of sections 7 and 8 of the aforesaid act, in this, the bottles containing it were each labeled "Basic lithia water, natural carbonic spring water, Basic, Virginia. Uric acid solvent. A pure, light, freestone, lithia water. Invaluable as a constant and exclusive drinking water, and in the prevention and cure of rheumatism, gout, malaria, typhoid fever, and diseases of the kidneys, liver, blood, and nerves," whereas the water contained practically no lithium carbonate, or any substance which would warrant the statements as to medicinal virtues made on the label, and contained the colon group of organisms, thereby rendering the water unfit for human consumption.